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Unsecured Creditors of Parmalat USA Corp., *et al.*

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	:	
	:	Case No. 04-11139 (RDD)
	:	(Jointly Administered)
PARMALAT USA CORP., <i>et al.</i> ,	:	
	:	Chapter 11
Debtors.	:	

**APPLICATION FOR AN ORDER FOR
BANKRUPTCY RULE 2004 EXAMINATION**

The Official Committee of Unsecured Creditors (the “Committee”) of Parmalat USA Corp., Farmland Dairies LLC (“Farmland”) and Milk Products of Alabama L.L.C. (“Milk Products”) (collectively, the “Debtors”), by its special conflicts counsel, Cole, Schotz, Meisel, Forman & Leonard, P.A. (“Cole Schotz”), hereby files this application for an order pursuant to Federal Rule of Bankruptcy Procedure 2004 (“Bankruptcy Rule 2004”) to examine the person or persons at Citigroup, Inc. and its affiliates, including Citibank, N.A. (collectively, “Citigroup”), with specific knowledge regarding the Parmalat Receivables Purchase Agreement (as defined below) and in support, states as follows:

Jurisdiction

1. This Court has jurisdiction to consider this application pursuant to 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory predicate for the relief requested herein is Bankruptcy Rule 2004.

Background

2. On February 24, 2004, the Debtors filed voluntary petitions for relief under Chapter 11 of Title 11 of the United States Code (the “Bankruptcy Code”). Pursuant to Sections 1107(a) and 1008 of the Bankruptcy Code, the Debtors are continuing in the management and possession of their property as debtors-in-possession.

3. On March 8, 2004, the United States Trustee for the Southern District of New York (the “U.S. Trustee”) appointed the Committee. The Committee selected Chadbourne & Parke LLP (“Chadbourne”) as its counsel and Cole Schotz as its special conflicts counsel with regard to matters as to which Chadbourne could not represent the Committee because of a conflict of interest, including matters adverse to General Electric Capital Corporation and its affiliates (“GE”) and Citigroup.

Relief Requested

4. Citigroup, as Agent and as successor-in-interest to Eureka Securitisation Plc, entered into a Parmalat Receivables Purchase Agreement on November 2, 2000, as amended, with Farmland and Milk Products (collectively, the “Citigroup Agreement”). Pursuant to this Court’s March 30, 2004 Final Order, inter alia, approving debtor-in-possession financing from GE, the Committee has sixty (60) days (subject to extension) from the date Chadbourne’s retention is approved within which to file an adversary proceeding or contested matter

challenging the amount, validity, enforceability, perfection or priority of or rights under and in connection with the Citigroup Agreement or otherwise to assert any claims, causes of action or other rights against Citigroup (the "Citigroup Adversary Proceeding").

5. A Bankruptcy Rule 2004 examination upon oral examination of Citigroup personnel with significant knowledge about the Citigroup Agreement is necessary at this time to enable the Committee to determine whether the Citigroup Adversary Proceeding should be filed. The parties have been cooperating with respect to the production of documents and it is believed that Citigroup does not object to the relief requested herein.

6. In connection with its investigation of claims and causes of action against Citigroup, the Committee also seeks the production of all documents identified on Schedule "A" to the proposed form of Order by May 17, 2004, subject to a Confidentiality Agreement executed by the parties. This request is being filed as a precautionary measure and the Committee has no reason to believe that Citigroup opposes this relief.

No Prior Request

7. No prior application for the relief requested herein has been made to this or any other court.

Waiver of Memorandum of Law

8. Pursuant to Local Bankruptcy Rule for the Southern District of New York 9013(b), because there are no novel issues of law presented herein, the Committee respectfully requests that the Court waive the requirement that the Committee file a memorandum of law in support of this Application.

Notice

9. The Committee has provided notice of this application by electronic filing and facsimile, where appropriate, to (i) the U.S. Trustee, (ii) counsel for the Debtors, (iii) counsel to Citigroup, (iv) counsel to GE, and (v) all parties requesting notice. The Committee submits that given the circumstances and the nature of the relief requested herein, no other or further notice is required.

WHEREFORE, for the foregoing reasons, the Committee respectfully applies to this Court for an order in the form attached hereto as Exhibit A: (i) requiring Citigroup to make available for examination pursuant to Bankruptcy Rule 2004 the person or persons with knowledge regarding the Citigroup Agreement at 10:00 a.m. on Tuesday, May 25, 2004, at the offices of Cole, Schotz, Meisel, Forman & Leonard P.A., 25 Main Street, Hackensack, New Jersey 07601 and continuing thereafter until completed, or at such other date and time as may be reasonably agreed upon by counsel; (ii) directing Citigroup to produce the documents identified on Schedule "A" to the proposed form of Order subject to the parties' Confidentiality Agreement; and (iii) granting the Committee such other relief as the Court deems just and proper.

DATED: Hackensack, New Jersey
May 5, 2004

COLE, SCHOTZ, MEISEL,
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